

Maine Revised Statutes
Title 10: COMMERCE AND TRADE
Chapter 212-C: REGULATION OF EXCHANGE FACILITATORS

§1396. LICENSE; REQUIREMENTS

1. License. A person may not directly or indirectly engage in or carry on, or purport to engage in or carry on, the business of, or act in the capacity of, an exchange facilitator in this State without first obtaining a license from the administrator in accordance with this chapter.

[2009, c. 61, §1 (NEW) .]

2. Issuance of license. An application for a license as an exchange facilitator must be in writing and filed with the administrator in the manner and form prescribed by the administrator. The administrator shall set an application fee for a primary office not to exceed \$350 and for any branch offices not to exceed \$200. All funds received by the administrator under this chapter are appropriated for the use of the administrator.

[2009, c. 61, §1 (NEW) .]

3. Renewal. On or before April 30th of each year, an exchange facilitator licensed under this chapter shall pay an annual license renewal fee of \$150 and shall file with the administrator a renewal form containing such information as the administrator may require.

[2009, c. 61, §1 (NEW) .]

4. Place of business; name. An exchange facilitator licensed under this chapter shall maintain a home office as its principal location for the transaction of exchange facilitator business. The administrator may issue additional branch licenses to the same exchange facilitator licensee upon compliance with all the provisions of this chapter governing the issuance of a single exchange facilitator license. An exchange facilitator may not engage in the exchange facilitator business at any place of business for which it does not hold a license or engage in business under any other name than that on the license.

[2009, c. 61, §1 (NEW) .]

5. Exemptions. The following persons described in this subsection are exempt from the requirements of this chapter:

A. A taxpayer or a disqualified person, as that term is defined under United States Treasury Regulation Section 1.1031(k)-1(k), seeking to qualify for the nonrecognition provisions of Section 1031 of the United States Internal Revenue Code of 1986, as amended; [2009, c. 61, §1 (NEW) .]

B. A financial institution; [2009, c. 61, §1 (NEW) .]

C. A title insurance company, underwritten title company or escrow company that is acting solely as a qualified escrow holder or qualified trustee, as those terms are defined under United States Treasury Regulation Section 1.1031(k)-1(g)(3), and that is not facilitating exchanges; [2009, c. 61, §1 (NEW) .]

D. A person that advertises for and teaches seminars or classes or otherwise makes a presentation to attorneys, accountants, real estate professionals, tax professionals or other professionals, when the primary purpose is to teach the professionals about tax-deferred exchanges or to train them to act as exchange facilitators; [2009, c. 61, §1 (NEW) .]

E. A qualified intermediary, as that term is defined under United States Treasury Regulation Section 1.1031(k)-1(g)(4), who holds exchange funds from the disposition of relinquished property located outside this State; [2009, c. 61, §1 (NEW).]

F. An entity in which an exchange accommodation titleholder has a 100% interest and that is used by the exchange accommodation titleholder as defined in United States Internal Revenue Service Revenue Procedure 2003-37 to take title to property in this State; [2009, c. 61, §1 (NEW).]

G. A person licensed to practice law in this State while engaged in the performance of the person's professional duties, except an attorney or law firm actively engaging in a separate business as an exchange facilitator; [2009, c. 61, §1 (NEW).]

H. A real estate company, broker or salesperson licensed by and subject to the jurisdiction of this State while performing acts in the course of or incidental to sales or purchases of real or personal property handled or negotiated by the real estate company, broker or salesperson; [2009, c. 61, §1 (NEW).]

I. A receiver, trustee in bankruptcy, executor, administrator, guardian or other person acting under the supervision or order of a court of this State or of a federal court; [2009, c. 61, §1 (NEW).]

J. A person licensed in this State as a certified public accountant while engaged in the performance of the person's professional duties who is not actively engaged in a separate business as an exchange facilitator; [2009, c. 61, §1 (NEW).]

K. A regulated lender subject to the licensing requirements of Title 9-A to the extent the lender is not engaged in a separate business as an exchange facilitator; [2009, c. 61, §1 (NEW).]

L. Any federal or state agency and its political subdivisions; and [2009, c. 61, §1 (NEW).]

M. A loan broker subject to the licensing requirements of Title 9-A, Article 10 to the extent the loan broker is not engaged in a separate business as an exchange facilitator. [2009, c. 61, §1 (NEW).]

[2009, c. 61, §1 (NEW).]

SECTION HISTORY

2009, c. 61, §1 (NEW).

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